

**FINAL**



**WEARE BOARD OF SELECTMEN  
MEETING MINUTES  
May 12, 2008**

**PRESENT:** TOM CLOW, CHAIRMAN; WENDY CLARK, VICE CHAIRMAN; HELEEN KURK, SELECTMAN; RICHARD W. BUTT, SELECTMAN; KEITH R. LACASSE, SELECTMAN

**TOWN ADMINISTRATOR:** Fred Ventresco

**RECORDING SECRETARY:** Cherry Palmisano

**GUESTS:** Chief Richards, Carl Knapp, Gordon Russell, Annette Fletcher, James Fletcher, Elizabeth LaRocca, David L. Plante, Ken Becker, Ian Trefry, Daniel Rukakoskis, Greg Begin, Andrew Fulton, Ian McSweeney

**7:00 p.m. Chairman Clow called the meeting to order.**

Chairman Clow said the Board would be discussing the Mountain Road issue and the work-taking place on that road. This is not a public hearing and discussion will be restricted to those with investment/involvement in the issue. Chairman Clow said the meeting was initiated because they received a letter from Gordon Russell expressing concerns on Mt. Road and how it affects habitat and environment in that area. Chairman Clow said a reconstruction team was put together in November to address earlier concerns and soon after that it snowed, they are now looking at what has been done and where they should go from here.

Mr. Gordon Russell from New Boston said the concerns of Mt. Road and the utility work done in the beginning of October were aired in the Conservation Committee meeting last fall. His letter dated March 22, 2008 to the Board and PSNH addressed incidents that happened in the early spring. Because of the concerns aired initially in the fall problems continued on because the road was opened all through the winter. Mr. Russell said there were wooden pallets stacked and he was concerned because those pallets might present a fire hazard. The pallets were put down along the road to gain access to the place. Pallets were burned with no damage. Apparently there was a problem with the passing of Ferrin Brook, before the winter the stone culvert was in place, unsure if there was a permit to dig out that culvert. Mr. Russell said now all traffic runs through Ferrin Pond Brook. A plastic culvert was put in the woods and Mr. Russell said there are rules and regulations for culverts. Mr. Russell is extremely concerned with the silt fences put up because without maintenance the silt fences break down and concentration of silt is a big problem concerning fish. Motorized traffic on Mt. Road continued to pass through 5 major crossings, which is illegal. Mr. Russell said with heavy rain it would bring the silt down into the brook. Mr. Russell said the legality of the vehicles running back and forth on the road is a major concern.

Vice Chairman Clark thinks Mr. Russell should clarify the Russell Foundation. Mr. Russell said the Russell Foundation plays no role in this issue but it is active in protecting land in the entire watershed and has no direct concern with this problem on Mt. Road other than the protection of the watershed. Mr. Russell said he lived in the town of Weare for 70 years and has great concern for this area.

Mr. Fred Ventresco asked to clarify the last request in Mr. Russell's letter, which was to close the road or clarify the problem. Mr. Russell said this is based on the illegal passage of motor vehicles.

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Chairman Clow said they have communication from Elizabeth LaRocca from PSNH. Mr. David Plante is the project manager for this project for PSNH. Chairman Clow said he just received a written response from PSNH tonight and has not had chance to review it.

Mr. Plante said a couple days after receiving letter they immediately sent an environmental consultant out to review items and validate them and determine what needed to be done. Mr. Plante said there is no need to debate what needs to be done, whether directly related to the project or not they provided what needed to be done. Mr. Plante said they advanced recommendations to their contractor on what needed to be addressed. Mr. Plante said 2 reports came out after the letter March 31, 2008 and April 16, 2008 that included the Mt. Road area and the second included a broader scope of environmental audits they have done since the beginning of the project. Mr. Plante said throughout the winter there was a lot of snow making maintaining some of the silt fence a challenge with plowing but the intent has been and they are trying very hard to maintain these issues as the snow melted. Mr. Plante said the response probably was not immediate as it should have been. As far as the culvert he does not believe there was any effort to remove the stone culvert. There was a request that they replace it by an adjacent homeowner; a specific permit is needed. Mr. Plante said as far as the motorized vehicles it is true at the time some of that was their activity and some was others. Mr. Plante told his colleagues they need to make sure everything gets taken care of. The construction of the project is complete, week of April 22, 2008 they conducted a start to finish walk down of the power line corridor making a list of what needed to be taken care of. They started at the Hillsborough end and reconstruction is taking place and will continue this week and next week and then they will begin work on the Mt. Road reconstruction. They will continue to coordinate with the administration and a plan that was approved by NH DES.

Chairman Clow said in looking at the minutes of the restoration team meeting back in November he asked if it would be used as a guide. Mr. Plante said some items and suggestions have been incorporated but they can't shut down the road until it is formally changed in status, but they are willing to do everything short of closing the road. Chairman Clow asked if there was another meeting of the restoration team other than on November 26 and is there a plan for this team to get back together. Mr. Plante said he does not believe there is, minutes circulated to all involved and commented were made. Chairman Clow asked Mr. Knapp if the issue of cleaning that culvert requires a permit. Mr. Knapp said probably because the culvert is underwater which would involve the state. Mr. Trefry from NH Soils said a permit is needed and it is a simple amount of work to request the permit.

Selectman Butt asked about the culvert and asked if they are questioning who is responsible for placing the culvert there. Selectman Butt said report asks who is responsible for the plastic culvert. Mr. Plante said THIRO put the culvert there. Mr. Plante said they have to remove the piece of plastic. Selectman Kurk said she heard him say they replaced the culvert. Mr. Plante said they are not replacing, request made to replace it because the stone one was crushed; request came forth from the landowner who needed the culvert to cross to get to his land.

Mr. Dan Rukakoskis is the project manager for inspections that take place. He said the property owner up the road from the culvert alleged that the existing stone culvert was crushed by THIRO and asked them to replace it. THIRO did not do it because they thought it would need a permit. He took a look and the culvert is still in place, there is water trickling down stream and large amounts of sand up stream. He believes the snow melting forced the sand there and blocked the stone culvert. Selectman Kurk asked about the culvert, is it stone, is it still there. Mr. Rukakoskis said yes it is still there and no restoration has been done. Selectman Butt commented that the landowner requested the repair because of access to their cabin. He said yes, at the private access way but it is not a class 6 road there. It was discussed the application for the permit would have to be signed by the landowner. Mr. Rukakoskis believes the access road has been there for quite some time. Selectman Butt asked if they are at risk of doing work to that road that would bring it up to a different classification. Mr. Knapp said as a town they couldn't expend money on a class 6 road. It would have to go before town meeting to change it to a class 5 road.

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Selectman Kurk asked if PSNH or THIRO goes on this land whether it is private, conservation land or a class 6 road did they go through this culvert. Mr. Rukakoskis said yes they used it as an access way. Selectman Kurk said so it would not be unreasonable to repair. Mr. Rukakoskis asked if the culvert was broken or does it need to be cleaned out; regardless the property owner needs to get the permit. Selectman Kurk asked if the property owner gave them permission for access.

Selectman Butt asked about the width of the power line corridor. Mr. Plante said 50 ft from each side of the center and it weaves in and out to Deering. Selectman Butt said because of the marsh they have to go to the other side and asked if it was maintained. It was discussed work is being done under the power lines. Chairman Clow asked when the project is done, there still needs to be access, what are the requirements for PSNH for access. Mr. Plante said they are not in the right to ask for any access. Generally they would gain access to that corridor through public roads until they meet terrain that is impassable for equipment then drive around to another public access, areas in between is where they get into permitted access. Chairman Clow said one point made was that vehicles are traveling through running water. Chairman Clow said the PSNH project is finished, they will be in there in the immediate future for restoration, but he is thinking beyond that. Chairman Clow knows it is not up to them to stop other vehicles from accessing the road. Mr. Plante said as far as ongoing maintenance work to that power line corridor they have a 5 year cycle to trim trees to keep them away from the wires, this is done with mowing equipment, no chemicals, generally the access would have to come through permitted crossing or access through public roads or private property with permission. Mr. Plante said this is a 40 year project.

Selectman Butt asked if the Board could take a look at the punch list. Mr. Plante said this would cover the Mt. Road area. Vice Chairman Clark commented on Mr. Plante saying this is ongoing maintenance and said when PSNH first came to the Conservation Commission that must have brought up and stated this is what needs to be done with this equipment for how long. Mr. Plante said he does not think they specifically mentioned it because this has been their practice since 19\_\_\_\_. Mr. Plante said maybe that was an oversight on their part, but nothing changed in their practice to mention the maintenance, which has been going on before this project. Vice Chairman Clark asked if they were working with DES and making sure they are in compliance, DES is above the Town of Weare.

Selectman Butt said legally they are required to report to DES and they are willing to comply with all requests. Selectman Butt said at the end of the process will there be an opportunity for the Board and all those involved to do a walk through. Mr. Plante said yes. Selectman Butt asked how this would be coordinated. Mr. Plante said they will be starting next Monday and discussed people walking through half way through, possibly Wednesday.

Selectman Kurk said the road has been considerably widen as a result of this project, not just the right a way but also the whole road. Mr. Plante said yes. Selectman Kurk said this is what people believe has caused such an increase in traffic and asked how this would be solved. Mr. Plante said the notes of the site walk mention ways to make it less attractive to many vehicles but there is nothing they will be able to do to keep the hard core four wheel operators off the road. Mr. Plante said the report says there are several places to place boulders to restrict vehicles and there are areas where they can make the road back to its original form. Selectman Lacasse asked what about the road when they come back for maintenance. Mr. Plante said for maintenance it is not an issue but for construction they had to fit trailers with equipment through the roads. Selectman Lacasse commented on the road being made narrower to restrict vehicles. Mr. Plante said he is not sure they can make the road narrower to restrict access. Vice Chairman Clark said the road has always been wide enough for regular vehicles and commented that police cruisers went down there before.

Mr. Fletcher mentioned he has 2,000 ft of frontage on Mt. Road, which starts right at the entrance and said that road was not passable by police cruisers because it was washed away.

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Mr. Russell said the larger picture and the seriousness of the widening of the road is extremely important; he is disappointed that PSNH is unable to answer questions that have to do with their contractor. He has photographs of the culvert crossing which show an illegal digging out of the old stone culvert, which was working, not the best but working. This was done with heavy equipment. Mr. Russell said it is obvious that it was dug out and the stones have disappeared. Mr. Russell said there is a photo, which shows a ditch, which brought all the swill into the brook.

Mr. Russell referred to a diagram of Lilly Pond Brook and said the major incursion that was broken down and said no attention has been made to those areas. Mr. Russell said in 1915 the road was built in the area by the farmers. Mr. Russell said the sediment is directed into Buxton Brook and attention needs to be paid to this. He also said the machinery from THIRO took rocks out and caused sediment to go into Buxton Brook. Mr. Russell said the widening of the road opened 1,078 protected acres in the Town of Weare that taxpayers have paid a lot of money to protect. Mr. Russell said there is 748 acres connected to Mt. Road that they are working with landowners in the area to get the land protected. Mr. Russell said there is nothing else like this 4,559 acres of open space in the state of New Hampshire and crossing these brooks is illegal.

Chairman Clow asked if the primary and first concern would be to direct attention to the brook crossing as far as restoration work. Chairman Clow said it seems like the brook crossings are creating the havoc that Mr. Russell is referring to. Chairman Clow said they have to move on and restore it the best they can and asked Mr. Russell if he would put at the top of his list the brook construction. Mr. Russell said restoration is not top priority, the problem remains, protecting surface waters which is the responsibility of the town and the state and protecting the open space. Selectman Butt said there are 2 issues restoration and protecting the area, which is the town's responsibility. Selectman Butt commented that things need to be put back to the way they were before the construction. Selectman Kurk asked what additional damage would be done when the reconstruction is done and said she needs guidance in what they push for reconstruction. Selectman Kurk said she is unsure what needs to be left alone because trying to repair would cause more damage. Selectman Kurk asked Mr. Russell to be more specific in what the town needs to do to protect the area. Mr. Russell said the responsibility since the early 1980's was to clean the area up and close the pond, which was very difficult. Mr. Russell said the town and people of the watershed have documented wildlife since 1995 in the area. Mr. Russell said the wildlife lives and sustains in the area; bobcat, mink, otter and bear have been documented. Mr. Russell said having the documentation alone should say caution. Mr. Russell said if it were designated as a footpath it would be a great honor because this land is so special. Mr. Russell said this is an extraordinary 4,500 acres.

Chairman Clow said the letter from Mr. Russell asks to directly close the road. Chairman Clow said this is not something the Board of Selectman could just do; it would require public debate and require an article on the warrant. Chairman Clow said they would like to move on tonight and separate the responsibilities. Chairman Clow would like to clarify specifically what they are asking of PSNH, he knows they have restoration beginning next week. Chairman Clow said members of the Board and the restoration team will be going in midweek to walk through. Selectman Butt feels Mr. Russell is right that this is a gem that needs to be protected and said the efforts need to be clarified.

Selectman Butt mentioned that comments were made that damage could be done while trying to reconstruct. Mr. Russell would be more than happy to work with the restoration team. Mr. Plante said the punch list does not entail Mt. Road just the areas not mentioned in the restoration teams report.

Mr. Ian Trefry with NHC said they have the right a way checklist, within the right of way corridor, the checklist is from the November team meeting. All restoration should take place during the 2008 growing season. The crossings that Mr. Russell is referring to THIRO is eager to get in and do these restoration activities. Mr. Trefry said in scheduling the restoration for next week it needs to be based on conditions with DES stating they are under a low flow condition. They will tentatively schedule work to start on Monday but will be under the discretion of the Environmental Protection Agency and a condition of milfoil will have to be documented. This

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restoration requires photographs to be submitted at the end of every day. Mr. Trefry said if they were to change anything on the restoration plan that would need to get approval. He said to make next week tentative.

Vice Chairman Clark said she is unsure what else they could ask them to do. Mr. Trefry said if they tentatively start Monday then the Board could walkthrough mid week. Selectman Butt said PSNH is willing to do whatever needs to be done and more. Vice Chairman Clark said DES has a greater understanding of the management. Chairman Clow said they have a responsibility to visit the site during reconstruction and at the end and feels it is their responsibility as public officials and to have first hand knowledge.

Vice Chairman Clark asked Mr. Russell about the culvert at Ferrin Pond crossing, she does not see how they can tell it has been worked on. Mr. Russell said you could tell it has been touched. Mr. Rukakoski said there is a culvert in place on the down stream end with water trickling out. Chairman Clow asked if there is an intention to clean out the culvert. Mr. Rukakoski said they need to contact the property owner.

Elizabeth LaRocca, Community Relation Manager for PSNH, told the Board that PSNH is trying to do their best with the issue and is concerned with the condition of the land. They do not have an environmental person available, they would like to establish an environmental person and would like to request Mr. Russell be present with the team to determine exactly what needs to be done. Mr. Plante agreed to be the point person. It was discussed Ms. LaRocca will contact Mr. Ventresco as a point of contact for the town. Mr. Trefry will contact DES. Chairman Clow said they would appoint a Board member. Mr. Rukakoski said the overall project would take about 3 and a half weeks.

Mr. Knapp commented on the landowner on the "phantom rd" possibly not being in the area and said if a permit is needed for the crossing the landowner has to apply for that permit. Mr. Knapp said so if it is private land they are crossing this could hold you up until the property owner applies for the permit. Mr. Trefry said the restoration compliance has a deadline date of August 1, 2008. Mr. Trefry said they need the landowner to move on the situation because if they go ahead and remove all the crossings they will lose access to this culvert. Mr. Ventresco will contact the landowner. Mr. Trefry said they could prepare the application.

Selectman Kurk asked Mr. Andy Fulton if the Conservation Commission applies for the permits in conservation land. Mr. Fulton said the permits are brought before them and then they have the opportunity to review and option of approving the permit. Selectman Kurk said they have a narrow timeframe and asked who will get this going. Mr. Fulton said the property owner fills out the permit application and it is brought before the Conservation Commission for review. Chairman Clow said this involves cleaning the culvert not replacing the culvert; the other areas are not culverts they involve restoration. Mr. Knapp said the property owners have a note of restoration from DES.

Mr. Fulton said the Conservation Commission was brought in on wetlands issues not involving the class 6 road, only wetland impact. Mr. Fulton said the only exposure the Conservation Commission had on the road issue was when he was here in July and it happened to be brought up and his understanding was that they were talking about tree cutting, not changing the road or putting in any culverts. Mr. Fulton said the understanding of the Conservation Commission was the roads could use maintenance and he did not know what needed to be done to the roads for them to pass.

Chairman Clow said the indication the Board had on this was that of less impact. Vice Chairman Clark said when Andy Fulton came before them it was about tree cutting but she remembers saying bringing in the poles seemed larger than that to her.

Chairman Clow said they know the damage that has been done, PSNH acknowledges the damage and they need to move ahead. Chairman Clow said if there isn't any new information then he would like to close the meeting.

Mr. Russell said because of the problem of the "phantom road" he wants PSNH to guarantee that they won't open up the part of the road that is still in its original form. PSNH agreed not to touch that part of the road.

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Chairman Clow said they received a notice from Judy Rogers asking if she need's the Board's authority to have Avitar do the assessment of the new PSNH property. Mr. Ventresco said there is a price to have Avitar do the assessment. Chairman Clow said Avitar bills based on their activity. Chairman Clow said if taxes are based on the property value as of April 1 then it will it have no impact this year. Mr. Ventresco said not this year.

Chief Richards said they are in the process of erecting the communication towers; they gave R&R several locations to put the towers. One location is Chase Park and a right a way location at Clough Park Road. Chief Richards told the Board Captain Hewey is going to the Chase Park meeting Tuesday night. He needs the Boards approval to place the tower at Chase Park. The tower is 25 ft tall and 6x6 inch tower, there will be no fence around the tower and one flat side of the tower needs to be directed south. The tower will not be in the parking lot. Chairman Clow said to put it in the least obtrusive location possible. Chief Richards said it does not need to be in a specific location within the park just in that general location requires no permit. Selectman Lacasse is fine with PARC making the placement decision. Selectman Kurk would like to hear from PARC on the location. Chairman Clow is fine with it. Selectman Kurk would like the tower placed in the least obtrusive location as possible. Chief Richards said when Captain Hewey goes to the meeting; if they can't find the exact location they will come back. Chief Richard said Dell's Way is another location for a tower. Chief Richards said Chief Begin is putting together the Capital Reserve request. The Board agreed to put the towers in.

## MANIFESTS

**Chairman Clow moved, Selectman Lacasse seconded, to authorize the Board of Selectmen to sign Manifest and order the Treasurer to sign checks dated May 15, 2008. Passed 3-2-0**

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|------------------|--------------------|
| Accounts payable | \$39,585.44        |
|                  | 7,120.13           |
| Gross Payrolls   | <u>\$41,170.60</u> |
| Total            | \$87,876.17        |

**Chairman Clow moved, Selectman Kurk seconded to enter into non-public session at 8:54 p.m. under RSA 91A:III a & c. A roll call vote was taken, Selectman Butt – yes, Vice Chairman Clark – yes, Selectman Kurk – yes, Selectman Lacasse – yes, Chairman Clow – yes. Passed 5-0-0**

**Chairman Clow moved, Selectman Lacasse seconded to come out of non-public session at 10:12 p.m. A roll call vote was taken, Selectman Butt – yes, Vice Chairman Clark – yes, Selectman Kurk – yes, Selectman Lacasse – yes, Chairman Clow – yes. Passed 5-0-0**

**Chairman Clow moved, Selectman Kurk seconded to seal and restrict the minutes of the non public. Passed 5-0-0**

## ADJOURNMENT

A True Record.

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Cherry Palmisano, Recording Secretary